

California Regional Water Quality Control Board  
North Coast Region

ORDER NO. R1-2001-9  
NPDES PERMIT NO. CAG911001

GENERAL WASTE DISCHARGE REQUIREMENTS

FOR

DISCHARGES OF HIGHLY-TREATED GROUNDWATER TO SURFACE WATERS  
FOLLOWING EXTRACTION AND CLEANUP OF GROUNDWATER POLLUTED WITH  
PETROLEUM HYDROCARBONS AND VOLATILE ORGANIC COMPOUNDS

NORTH COAST REGION

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board) finds that:

1. On October 26, 1995, the Regional Water Board adopted Order No. 95-88 (NPDES No. CAG911001) allowing the discharge of extracted and highly treated groundwater resulting from the cleanup of groundwater polluted with petroleum hydrocarbons and volatile organic compounds. Pursuant to 40 CFR 122.6(d), the expiration date for Order No. 95-88 has been continued until 240 days past the effective date of this new Order, which is a renewal and update of Order No. 95-88.
2. The September 22, 1989, Memorandum of Agreement between the U.S. Environmental Protection Agency (hereinafter "U.S. EPA") and the State Water Resources Control Board (hereinafter "State Water Board") authorized and established procedures for the State Water Board to issue general National Pollutant Discharge Elimination System (NPDES) Permits pursuant to 40 CFR 122.28 and 122.44.
3. 40 CFR 122.28 provides for the issuance of General NPDES Permits to regulate a category of point sources if the sources:
  - a) Involve the same or substantially similar types of operations;
  - b) Discharge the same type of wastes;
  - c) Require the same type of effluent limitations or operating conditions;
  - d) Require similar monitoring; and,
  - e) Are more appropriately regulated under a General NPDES Permit rather than individual permits.

4. Existing and future discharges of extracted and treated groundwater to surface waters of the North Coast Region from groundwater cleanup projects:
  - a) Result from similar operations (all involve extraction, treatment, and discharge of groundwater); and
  - b) Are the same type of waste (all are groundwater treated for the removal of petroleum hydrocarbons and volatile organic compounds present from the leaks and spills from underground tanks, above ground tanks, barrels, etc.); and
  - c) Require similar effluent limitations for discharges to surface waters in the North Coast Region; and
  - d) Require similar minimum frequency of monitoring; and
  - e) Are determined to be more effectively regulated with General NPDES Permits rather than individual permits.

This Order, therefore, establishes requirements for regulation of discharges of extracted and highly-treated groundwater resulting from cleanup activities for petroleum hydrocarbons and volatile organic compounds at underground tank, above ground tank, and similar sites that can be effectively regulated through a General NPDES Permit.

5. General Waste Discharge Requirements and NPDES Permits will enable the Regional Water Board to expedite processing of requirements, simplify the application process for permittees, better utilize limited staff resources, and avoid the expense and time involved in repetitive public noticing, hearings, and permit adoptions.
6. Use of this Order to regulate the specified discharges identified herein would not be against the public interest.
7. To discharge treated groundwater pursuant to this Order, owners and operators of the treatment facilities (hereinafter referred to as permittees) must be eligible pursuant to Part A. Eligibility of this Order and must be authorized pursuant to Part B. Authorization of this Order. Permittees who have received an authorization letter from the Regional Water Board Executive Officer are authorized to discharge treated groundwater under the terms and conditions of this Order.
8. The Water Quality Control Plan for the North Coast Region (Basin Plan) includes water quality objectives, receiving water limitations, implementation plans for point source and nonpoint source discharges, prohibitions, and statewide plans and policies.

The Basin Plan also includes an “Interim Action Plan for Cleanup of Groundwaters Polluted with Petroleum Products and Halogenated Volatile Hydrocarbons” [Section 4 – Implementation Plans].

9. The Basin Plan contains a narrative objective (standard) for toxicity that requires:

"All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life. Compliance with this objective will be determined by use of indicator organisms, analyses of species diversity, population density, growth anomalies, bioassay of appropriate duration or other appropriate methods as specified by the Regional Water Board.

The survival of aquatic life in surface waters subjected to a waste discharge, or other controllable water quality factors, shall not be less than that for the same water body in areas unaffected by the waste discharge, or when necessary for other control water that is consistent with the requirements for "experimental water" as described in Standard Methods for the Examination of Water and Wastewater 18th Edition (1992). As a minimum, compliance with this objective as stated in the previous sentence shall be evaluated with a 96-hour bioassay.

In addition, effluent limits based upon acute bioassays of effluent will be prescribed. Where appropriate, additional numerical receiving water objectives for specific toxicants will be established as sufficient data become available, and source control of toxic substances will be encouraged."

10. The State Water Board adopted the Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California (also known as the State Implementation Plan or SIP) on March 2, 2000. The SIP applies to discharges of toxic pollutants into the inland surface waters, enclosed bays, and estuaries of California subject to regulation under the State's Porter-Cologne Water Quality Control Act (Division 7 of the Water Code) and the federal Clean Water Act. This Policy establishes:

- a) Implementation provisions for priority pollutant criteria promulgated by the U.S. EPA through the National Toxics Rule (NTR) and through the California Toxics Rule (CTR), and for priority pollutant objectives established by Regional Water Boards in their Basin Plans;
- b) Monitoring requirements for 2,3,7,8-TCDD equivalents; and
- c) Chronic toxicity control provisions.

11. The beneficial uses of waters of the North Coast Region include:

- a) Municipal and domestic supply (MUN)
- b) Agricultural supply (AGR)
- c) Industrial service supply (IND)
- d) Industrial process (PROC)
- e) Groundwater recharge (GWR)
- f) Freshwater replenishment (FRSH)
- g) Navigation (NAV)
- h) Hydropower generation (POW)
- i) Water contact recreation (REC1)
- j) Noncontact water recreation (REC2)
- k) Commercial and sport fishing (COMM)

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| l) | Warm freshwater habitat                                  | (WARM)  |
| m) | Cold freshwater habitat                                  | (COLD)  |
| n) | Preservation of areas of special biological significance | (BIOL)  |
| o) | Inland saline water habitat                              | (SAL)   |
| p) | Wildlife habitat   | (WILD)  |
| q) | Preservation of rare and endangered species              | (RARE)  |
| r) | Marine habitat   | (MAR)   |
| s) | Migration of aquatic organisms                           | (MIGR)  |
| t) | Spawning, reproduction, and/or early development         | (SPWN)  |
| u) | Shellfish harvesting                                     | (SHELL) |
| v) | Estuarine habitat  | (EST)   |
| w) | Aquacultural   | (AQUA)  |
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12. Effluent limitations, and toxic and pretreatment effluent standards established pursuant to Sections 208(b), 301, 302, 303(d), 304, 306, 307, and 403 (if an ocean discharge) of the federal Clean Water Act and amendments thereto are applicable to the permittee.
  13. The permitted discharge is consistent with the antidegradation provision of 40 CFR 131.12 and State Water Board Resolution No. 68-16. The impact on existing water quality will be insignificant.
  14. Section 301(b)(2) of the federal Clean Water Act requires that all NPDES Permits prescribe the application of best available technology economically achievable in the determination of technology-based effluent limits.
  15. A reasonable potential analysis was conducted utilizing existing data for priority pollutants (as listed in the CTR) that have been, or are likely to be found in the groundwater at cleanup sites in this region. Based on this reasonable potential analysis, numeric and narrative effluent prohibitions have been incorporated in Part D. Discharge Prohibitions. Furthermore, based on data submitted to comply with Part C. Report of Waste Discharge (ROWD), there is no reasonable potential to discharge priority pollutants at a level that would cause or contribute to an excursion above any applicable priority pollutant criterion or objective.
  16. The requirements contained in this Order were established by considering all the water quality control policies, plans, and regulations mentioned above and will protect and maintain the beneficial uses of the receiving waters.
  17. The issuance of this Order is exempt from the California Environmental Quality Act (CEQA) as a categorical exemption for the protection of the environment [CCR Title 14, Division 6, Chapter 3, Article 19, Section 15308]. The issuance of this Order is also exempt from Chapter 3 of CEQA pursuant to California Water Code Section 13389.

18. The Regional Water Board has notified the permittee and interested agencies and persons of its intent to prescribe general waste discharge requirements for the discharge of extracted and treated groundwater polluted by petroleum products and volatile organic compounds and has provided them with an opportunity to submit their written comments and recommendations.
19. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to the discharge of extracted and treated groundwater polluted by petroleum products and volatile organic compounds.
20. This Order will serve as a NPDES Permit pursuant to Section 402 of the federal Clean Water Act, or amendments thereto, and will take effect upon adoption by the Regional Water Board.

THEREFORE, IT IS HEREBY ORDERED that Order No. 95-88 is rescinded effective September 23, 2001, and that the permittee, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, and the provisions of the Federal Clean Water Act and regulations and guidelines adopted thereunder, shall comply with the following:

#### **A. ELIGIBILITY**

1. Discharges to surface waters of treated groundwater resulting from cleanup activities for petroleum products and volatile hydrocarbons may be eligible for coverage under this Order.
2. When an individual NPDES Permit with more specific requirements is issued to a permittee, the applicability of this Order to the individual permittee is automatically terminated on the effective date of the individual permit.
3. Any permittee that is proposing to discharge, or that has been found to be discharging wastes that are not appropriate for coverage under this Order shall not be permitted to discharge under this Order until the system has been modified so that it meets the conditions of this Order to the satisfaction of the Executive Officer. The discharge of any of the 126 priority pollutants (Appendix A) or other pollutants that are prohibited as specified in Part D. Discharge Prohibitions of this Order, is not appropriately regulated under this Order. Also, any discharge which exhibits toxicity (as described in Monitoring & Reporting Program R1-2001-9) is not appropriate for regulation under this Order. If a system cannot be modified to meet the terms of this Order, authorization to discharge under this Order shall be revoked, and an individual permit or an approved alternative disposal method must be developed.
4. This Order only applies to minor permittees, as defined by the U.S. EPA (<1 million gallons of treated effluent/day).
5. This Order does not apply to Ocean discharges, as defined and regulated under the California Ocean Plan [State Water Resources Control Board, 1997].

#### **B. AUTHORIZATION**

1. To be authorized to discharge under this Order, the permittee must submit a Report of Waste Discharge and an application for an NPDES Permit (hereinafter Report of Waste Discharge) in accordance with the requirements of Part C. Report of Waste Discharge of this Order. Upon receipt of the Report of Waste Discharge, the Executive Officer shall determine the applicability of this Order to such a discharge.
2. Authorization to discharge under this Order shall not be issued by the Executive Officer until thirty (30) calendar days after the permittee has:
  - a) Filed a complete Report of Waste Discharge,
  - b) Provided proof of publishing in a newspaper of general circulation, an adequate Notice of Intent (as defined in Part C. Report of Waste Discharge of this Order) to comply with this Order which includes a description of the project, and
  - c) Provided proof of posting the notice in the general area of the discharge and distribution of copies of the notice to nearby residences or businesses. Authorization to discharge under this Order shall not be issued if the Executive Officer finds that significant public controversy has arisen or will likely arise from the issuance of this Order and that authorization to discharge under this Order or an individual NPDES Permit should be considered at a regularly scheduled Regional Water Board meeting.
3. Thirty (30) calendar days after providing public notice, the Executive Officer may find that authorization to discharge under this Order should be issued, at which time the Executive Officer shall notify the permittee that its discharge is authorized under the terms and conditions of this Order and prescribe the appropriate monitoring and reporting program. In an emergency situation, the Executive Officer may authorize the discharge after a shorter notice period. An "emergency situation" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to life, health, property, or environment.
4. Existing permittees are those for whom discharges have been authorized under Order No. 95-98. New permittees are those seeking authorization to discharge under this Order for the first time. For new permittees, no discharge shall commence until receipt of the Executive Officer's written determination. Existing permittees must file a Report of Waste Discharge within 120 days of the effective date of this Order, and must receive by July 31, 2001, a written authorization from the Executive Officer to continue discharging or the discharge is no longer authorized.

### **C. REPORT OF WASTE DISCHARGE**

1. Deadline for Submission

Existing permittees shall comply with Part B. Authorization, item 4, and new permittees must file a Report of Waste Discharge at least 120 days before the start of discharge. [40 CFR 122.21(c)]

2. Failure to Submit a Report of Waste Discharge

Permittees who fail to file a Report of Waste Discharge and discharge pollutants to the waters of the State are in violation of the California Water Code and the federal Clean Water Act.

3. Contents

The Report of Waste Discharge for both new and existing permittees shall include the following information:

- a) An effluent reclamation feasibility assessment and, if reuse is not feasible, a description of considered alternatives for disposal other than to surface waters. This assessment shall include an evaluation that the discharge is necessary because no feasible alternative to the discharge (re injection, reclamation, evaporation, discharge to a community water treatment and disposal system, etc.) is available;
- b) Complete State of California form 200, U.S. EPA application forms 1 (General Information) and U.S. EPA application form 2D (New Sources and New Permittees). Existing permittees may submit U.S. EPA application short form 1A in lieu of U.S. EPA application forms 1 and 2D;
- c) A full description of the proposed project, including all equipment, any chemical additives, and a scaled map showing the project location;
- d) Influent water quality data including: any naturally occurring constituents/parameters such as iron, manganese, copper, nickel, lead and other metals; hardness, pH, nitrate, phosphate, and other general mineral properties, and any other parameters that could affect the performance of the treatment system or the quality of the receiving water;
- e) Chemical analysis of the effluent and receiving waters, including all constituents measured under item d, above, and those compounds specifically listed under Part D. Discharge Prohibitions, item 6 of this Order. In addition, the results of a minimum of one (1) round of analytical data on the effluent and receiving water for each of the constituents listed in Appendix A shall be submitted. In all cases, receiving waters must be tested immediately upstream of the point of discharge into the receiving water body.

- f) Analysis of the receiving water salinity immediately upstream of the point of discharge. The flow rate of the receiving water at the time of sampling shall also be measured.
  - g) Submit a minimum of one (1) chronic bioassay test (as described in Monitoring & Reporting Program R1-2001-9) with the report of waste discharge.
  - h) Submit a minimum of one (1) dry weather or wet weather dioxin/furan congener study of the effluent with the report of waste discharge. This study must be conducted in accordance with Monitoring & Reporting Program R1-2001-9;
  - i) A map showing the discharge path from the treatment facility through storm sewers or ditches to the ultimate location of the discharge to the receiving water. This map (or another map) must also show the location of all proposed compliance sampling points;
  - j) The status of the groundwater investigation, including definition of free product and dissolved phase plumes;
  - k) For all new permittees and for existing permittees with significant changes from prior submittals, the operation and maintenance (O&M) manual as described in item C.4. below;
  - l) For all new permittees and for existing permittees with significant changes from prior submittals, the certification report with a description of the extraction system design as described in C.5. below;
  - m) A copy of the Regional Water Board or other governmental agency directive requiring cleanup of polluted groundwater;
  - n) For underground storage tank related matters, documentation of compliance with Title 23, Division 3, Chapter 16, Article 11 of the California Code of Regulations;
  - o) A II-B permit fee as specified by the State fee schedule; and
  - p) Any other information deemed necessary by the Executive Officer.
4. Operation and Maintenance Manual (O&M Manual)

For all new permittees and for existing permittees with significant changes from prior submittals, the Report of Waste Discharge shall be accompanied by an operation and maintenance manual.

- a) The O&M manual shall specify both normal operating and critical maximum or minimum values for treatment process variables including influent concentrations, flow rates, water levels, temperatures, time intervals, and chemical feed rates.



- b) The O&M manual shall specify an inspection and maintenance schedule for active and reserve systems and shall provide a log sheet format to document inspection observations and record completion of maintenance tasks.
- c) The O&M manual shall include a contingency and notification plan meeting the requirements of Regional Water Board Order No. 74-151, "Contingency Planning and Notification Requirements for Accidental Spills and Discharges," which is hereby incorporated into and made a part of this Order. The plan shall include procedures for emergency notification of operating personnel to assure compliance with this order and authorization letters from the Executive Officer.
- d) The O&M manual shall specify safeguards to prevent noncompliance as a result of equipment failure, power loss, vandalism, or ten-year return frequency rainfall.

5. Engineering Design

For all new permittees and for existing permittees with significant changes from prior submittals, the Report of Waste Discharge shall be accompanied by a report certifying the adequacy of each component of the proposed treatment facilities. This certification shall contain an analysis, based on accepted engineering practice, of how the process and physical design of the treatment facilities will ensure compliance with this Order. The report shall also certify that:

- a) Adequate treatment facility maintenance and testing schedules are included in the treatment facility O&M manual, and
- b) Sampling points are located where representative samples of process and discharge streams to be monitored can be obtained. The design engineer shall affix her/his signature and engineering license number to this certification report.

**D. DISCHARGE PROHIBITIONS**

- 1. The discharge of groundwater containing constituents in excess of the background level in the receiving water is prohibited.
- 2. The discharge of any priority pollutant as listed in the CTR (Analytes listed in Appendix A) that would:
  - a) Cause,
  - b) Have a reasonable potential to cause, or
  - c) Contribute to an excursion above any applicable priority pollutant criterion or objective is prohibited.
- 3. The discharge of any waste, other than treated groundwater extracted from the site as described in the accepted Report of Waste Discharge, is prohibited except as

regulated under another order issued by the Regional Water Board, or as discharged to a permitted facility.

4. Creation of a pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code is prohibited. [Health and Safety Code, Section 54111]
5. The discharge of extracted and treated groundwater from a specific site in excess of the maximum flow rate specified in the Report of Waste Discharge is prohibited.
6. The discharge from the treatment facility of detectable levels of the constituents listed in the table below and the constituents listed in Tables A1, A2, and A4 of Appendix A is prohibited. For the purposes of this Order, the Minimum Level<sup>1</sup> (ML) of detection shall be those listed in the table below and in Tables A1, A2, A3 and A4 of Appendix A.

Constituent	Units	Required Minimum Level
Total Petroleum Hydrocarbons	ug/l	50.0
Total Xylenes	ug/l	0.5
Methyl tertiary-butyl ether (MtBE) <sup>a</sup>	ug/l	0.5
Di-Isopropyl ether (DIPE) <sup>a</sup>	ug/l	0.5
Tertiary-amyl methyl ether (TAME) <sup>a</sup>	ug/l	0.5
Ethyl tertiary-butyl ether (ETBE) <sup>a</sup>	ug/l	0.5
Tertiary-butyl alcohol (TBA) <sup>a</sup>	ug/l	5.0
Methanol	mg/l	1.0
Ethanol <sup>a</sup>	ug/l	5.0
Volatile Organic Compounds (Other than those listed in Appendix A)	ug/l	0.5

a. All fuel oxygenates are to be analyzed using EPA Method 8260 (except methanol)

## E. RECEIVING WATER LIMITATIONS

1. The waste discharge must not cause the dissolved oxygen concentration of the receiving waters to be depressed below 7.0 mg/l. In the event that the receiving waters are determined to have dissolved oxygen concentration of less than 7.0 mg/l, the discharge shall not depress the dissolved oxygen concentration below the existing level.

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<sup>1</sup> Minimum Level (ML) is the concentration at which the entire analytical system must give a recognizable signal and acceptable calibration point. The ML is the concentration in a sample that is equivalent to the concentration of the lowest calibration standard analyzed by a specific analytical procedure assuming that all of the method specified sample weights, volumes, and processing steps have been followed.

2. The discharge must not cause the pH of the receiving waters to be depressed below 6.5 nor raised above 8.5. Within this range, the discharge shall not cause the pH of the receiving waters to be changed at any time more than 0.5 units from that which occurs naturally.
3. The discharge must not cause the turbidity of the receiving waters to be increased more than 20 percent above naturally occurring background levels.
4. The discharge must not cause the receiving waters to contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses.
5. The discharge must not cause the receiving waters to contain taste- or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible products of aquatic origin, that cause nuisance, or that adversely affect beneficial uses.
6. The discharge of waste must not cause esthetically undesirable discoloration of the receiving waters.
7. The discharge must not cause bottom deposits in the receiving waters to the extent that such deposits cause nuisance or adversely affect beneficial uses.
8. The discharge must not contain concentrations of biostimulants which promote objectionable aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses of the receiving waters.
9. The discharge must not cause a measurable temperature change in the receiving waters.
10. The discharge must not cause bioaccumulation of pesticide, fungicide, wood treatment chemical, or other toxic pollutant concentrations in bottom sediments or aquatic life to levels which are harmful to human health.
11. The discharge must not cause the receiving waters to contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water that cause nuisance or that otherwise adversely affect beneficial uses.
12. This discharge must not cause a violation of any applicable water quality standard for receiving waters adopted by the Regional Water Board or the State Water Board as required by the federal Clean Water Act, and regulations adopted thereunder. If more stringent applicable water quality standards are promulgated or approved pursuant to Section 303 of the federal Clean Water Act, or amendments thereto, the Regional Water Board will revise and modify this Order in accordance with such more stringent standards.
13. The discharge must not cause concentrations of contaminants to occur at levels which are harmful to human health in waters which are existing or potential sources of drinking water.

14. The discharge must not cause concentrations of toxic pollutants in the water column, sediments, or biota that adversely affect beneficial uses.
15. The discharge must not cause the receiving waters or effluent to contain toxic substances in concentrations that are toxic to, degrade, or that produce detrimental physiological responses in humans or animals or cause acute or chronic toxicity in plants or aquatic life. Compliance with this objective will be determined by the use of toxicity monitoring, as described in Monitoring & Reporting Program R1-2001-9.

## **F. SOLIDS DISPOSAL**

1. This Order does not authorize waste discharge to land. Collected screenings, sludges, and other solids removed from liquid wastes shall be disposed of at a solid waste facility for which waste discharge requirements have been prescribed by a Regional Water Board.

## **G. PROVISIONS**

1. Duty to Comply

The permittee must comply with all of the conditions of this Order. Any Order noncompliance constitutes a violation of the federal Clean Water Act and the California Water Code and is grounds for enforcement action; for Order termination, revocation and reissuance, or modification; or denial of an Order renewal application. [40 CFR 122.41(a)]

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the federal Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if this Order has not yet been modified to incorporate the requirement. [40 CFR 122.41(a)(1)]

2. Duty to Reapply

This Order expires on January 26, 2006. The permittee needs to reapply for authorization to discharge in accordance with the requirements specified in any new or modified Order, which replaces or updates this Order. [40 CFR 122.41(b), 40 CFR 122.21(d)(2)]

The Regional Administrator of the U.S. EPA may grant permission to submit an application at a later date prior to the Order expiration date. [40 CFR 122.21(d)(2)]

3. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order. [40 CFR 122.41(c)]

4. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this Order which has a reasonable likelihood of adversely affecting human health or the environment. [40 CFR 122.41(d)]

5. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with this Order. Proper operation and maintenance includes adequate laboratory control and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems that are installed by a permittee only when necessary to achieve compliance with the conditions of this Order. [40 CFR 122.41(e)]

6. Order Actions

This Order may be modified, revoked and reissued, or terminated for cause [40 CFR 122.41(f)] including, but not limited to, the following:

- a) Violation of any terms or conditions of this Order; or
- b) Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts; or
- c) A change in any condition that requires either a temporary or a permanent reduction or elimination of the authorized discharge; or
- d) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by Order modification or termination.

The U.S. EPA Administrator may request the Regional Water Board Executive Officer to require any permittee authorized to discharge waste by this Order to subsequently apply for and obtain an individual NPDES Permit. The Executive Officer may require any permittee authorized to discharge waste by this Order to subsequently apply for and obtain an individual NPDES Permit. An interested person may petition the Executive Officer or the Regional Administrator to take action under this provision. The Regional Water Board may also review and revise this Order at any time upon application of any person, or on the Regional Water Board's own motion. [California Water Code, Division 7, Chapter 4, Article 4, Section 13263(e)]

If any toxic effluent standard or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under Section 307(a) of the federal Clean Water Act for a toxic pollutant which is present in the discharge and that standard or prohibition is more stringent than any limitation on the pollutant in this Order, this Order shall be modified or revoked and reissued to conform to the toxic effluent standard or prohibition and the permittee so notified. [40 CFR 122.44(b)]

The Executive Officer may modify or revoke authorization to discharge under this Order if it is determined that the permittee is causing or significantly contributing to adverse impacts to the water quality and/or beneficial uses of receiving waters. In the event that the Regional Water Board's interpretation of the narrative toxicity objective is modified or invalidated by the Regional Water Board, a court decision, a State statute or regulation, or a federal statute or regulation, this Order may be revised to be consistent with the order, decision, statute or regulation.

In addition, the Regional Water Board may consider revising this Order to make it consistent with any Regional Water Board decisions arising from various petitions for re-hearing, and litigation concerning the state implementation plan, 303(d) list, and TMDL Program.

The filing of a request by the permittee for an Order modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any Order condition. [40 CFR 122.41(f)]

7. Property Rights

This Order does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state or local laws or regulations. [40 CFR 122.41(g)]

8. Duty to Provide Information

The permittee shall furnish the Regional Water Board, State Water Board, or U.S. EPA, within a reasonable time, any information which the Regional Water Board, State Water Board, or U.S. EPA may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order or to determine compliance with this Order. The permittee shall also furnish to the Regional Water Board, upon request, copies of records required to be kept by this Order. [40 CFR 122.41(h)]

The permittee shall conduct analysis on any sample provided by U.S. EPA as part of the Discharge Monitoring Quality Assurance (DMQA) Program. The results of any such analysis shall be submitted to U.S. EPA's DMQA manager.

9. Inspection and Entry

The permittee shall allow the Regional Water Board, State Water Board, U.S. EPA, and/or other authorized representatives upon the presentation of credentials and other documents as may be required by law, to:

- a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order;
- b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Order;

- c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order; and
- d) Sample or monitor at reasonable times, for the purposes of assuring Order compliance or as otherwise authorized by the federal Clean Water Act, any substances or parameters at any locations. [40 CFR 122.41(i)]

10. Monitoring and Records

- a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. [40 CFR 122.41(j)(1)]
- b) The permittee shall calibrate and perform maintenance procedures in accordance with manufacturer's specifications on all monitoring instruments and equipment to ensure accurate measurements. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the Regional Water Board, State Water Board, or U.S. EPA at any time. All monitoring instruments and devices used by the permittee to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary, at least annually to ensure their continued accuracy. [40 CFR 122.41(j)(2)]
- c) Records of monitoring information shall include [40 CFR 122.41(j)(3)]:
  - i. The date, exact place, and time of sampling or measurements;
  - ii. The individual(s) who performed the sampling or measurements;
  - iii. The date(s) analyses were performed;
  - iv. The individual(s) who performed the analyses;
  - v. The analytical techniques or methods used;
  - vi. The results of such analyses;
  - vii. The method detection limit (MDL)<sup>2</sup>; and
  - viii. The minimum level (ML) of detection.

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<sup>2</sup> Method Detection Limit (MDL) is the minimum concentration of a substance that can be measured and reported with 99 percent confidence that the analyte concentration is greater than zero, as defined in 40 CFR 136, Appendix B, revised as of May 14, 1999.

- d) Unless otherwise noted, all sampling and sample preservation shall be in accordance with the current edition of "Standard Methods for the Examination of Water and Wastewater" (American Public Health Association). All analyses must be conducted according to test procedures under 40 CFR Part 136, unless other test procedures have been specified in this Order or approved by the Executive Officer of the Regional Water Board. [40 CFR 122.41(j)(4)] Unless otherwise specified, all metals shall be reported as total metals. Test fish for bioassays and test temperatures shall be specified by the Executive Officer of the Regional Water Board. Bioassays shall be performed in accordance with guidelines approved by the Regional Water Board and the Department of Fish and Game.

#### 11. Signatory Requirements

- a) For a corporation, all Order applications, reports, or information submitted to the Regional Water Board, State Water Board, and/or U.S. EPA shall be signed by a responsible corporate officer. For purposes of this provision, a responsible corporate officer means:
  - i. A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
  - ii. The manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

OR

For a partnership or sole proprietorship, all Order applications, reports, or information submitted to the Regional Water Board, State Water Board, and/or U.S. EPA shall be signed by a general partner or the proprietor, respectively.

OR

For a municipality, state, or other non-federal agency, all Order applications, reports, or information submitted to the Regional Water Board, State Water Board, and/or U.S. EPA shall be signed by either a principal executive officer or ranking elected official. [40 CFR 122.22(a)]

OR

For a federal agency, all Order applications, reports, or information submitted to the Regional Water Board, State Water Board, and/or U.S. EPA shall be signed by either the chief executive officer of the agency or a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of U.S. EPA). [40 CFR 122.22(a)]



- b) Reports required by this Order, other information requested by the Regional Water Board, State Water Board, or U.S. EPA, and Order applications submitted for Group II storm water discharges under 40 CFR 122.26(b)(3) may be signed by a duly authorized representative provided:
  - i. The authorization is made in writing by a person described in paragraph (a) of this provision;
  - ii. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company; and
  - iii. The written authorization is submitted to the Regional Water Board prior to or together with any reports, information, or applications signed by the authorized representative. [40 CFR 122.22(b)(c)]
- c) Any person signing a document under paragraph (a) or (b) of this provision shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted, is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations." [40 CFR 122.22(d)]

12. Reporting Requirements

- a) Planned changes: The permittee shall give notice to the Regional Water Board as soon as possible of any planned physical alteration or additions to the permitted facility. Notice is required under this provision only when:
  - i. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in 40 CFR 122.29(b); [40 CFR 122.41(l)(i)] or
  - ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the Order, nor the notification requirements under Provision 12 (c). [40 CFR 122.41(l)(ii)]
- b) Anticipated noncompliance: The permittee will give advance notice to the Regional Water Board of any planned changes in the permitted facility or activity which may result in noncompliance with Order requirements. [40 CFR 122.41(l)(2)]

- c) Noncompliance reporting: The permittee shall report any noncompliance at the time monitoring reports are submitted. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. [40 CFR 122.41(l)(6)(i)]

The following events shall be reported orally as soon as the permittee becomes aware of the circumstances, and the written report shall be provided within five calendar days of that time. [40 CFR 122.41(l)(6)(i)]

- i. Any unanticipated bypass that violates any prohibition or exceeds any effluent limitation in the Order. [40 CFR 122.41(l)(6)(ii)(A)]
- ii. Any upset that exceeds any effluent limitation in the Order. [40 CFR 122.41(l)(6)(ii)(B)]
- iii. Violation of a maximum daily discharge limitation for any of the pollutants listed by the Regional Water Board in this Order. [40 CFR 122.41(l)(6)(ii)(C)]
- iv. Any noncompliance that may endanger health or the environment.

The Executive Officer may waive the above-required written report.

- d) Compliance schedules: Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this Order shall be submitted no later than 14 calendar days following each schedule date. [40 CFR 122.41(l)(5)]
- e) Transfers: Authorization to discharge under this general Order is not transferable. A new owner or operator of an existing facility must submit a new Report of Waste Discharge to obtain authorization to discharge under this general Order.
- f) Other information: Where the permittee becomes aware that it failed to submit any relevant facts in an Order application, or submitted incorrect information in an Order application or in any report to the Regional Water Board, the permittee shall promptly submit such facts or information. [40 CFR 122.41(1)(8)]

### 13. Enforcement

The federal Clean Water Act provides that any person who violates an Order condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the federal Clean Water Act is subject to a civil penalty not to exceed \$25,000 per day of violation. Any person who negligently violates Order conditions implementing Sections 301, 302, 306, 307, or 308 of the Act is subject to a fine of not less than \$2,500 nor more than \$25,000 per day of violation, or by imprisonment of not more than one year, or both. Higher penalties may be imposed for knowing violations and for repeat offenders. Sections 13385, 13386 and 13387 of the

California Water Code provides for civil and criminal penalties comparable to, and in some cases greater than, those provided under the federal Clean Water Act. [40 CFR 122.41(a)(2)]

14. Availability

A copy of this Order shall be maintained at the discharge facility and be available at all times to operating personnel.

15. Change in Discharge

In the event of a material change in the character, location, or volume of a discharge, (including any point or nonpoint discharge to land or groundwater) the permittee shall file with this Regional Water Board a new report of waste discharge at least 180 days before making any such change. [California Water Code Section 13376]. A material change includes, but is not limited to, significant change in the disposal area, e.g., moving the discharge to another drainage area, to a different water body, or to a disposal area, significantly removed from the original area, potentially causing different water quality or nuisance problems.

16. Severability

Provisions of these waste discharge requirements are severable. If any provision of these requirements is found invalid, the remainder of these requirements shall not be affected.

17. Monitoring

The Regional Water Board or State Water Board may require the permittee to establish and maintain records, make reports, install, use, and maintain monitoring equipment or methods (including where appropriate biological monitoring methods), sample effluent as prescribed, and provide other information as may be reasonably required. [California Water Code Section 13267 and 13383].

The permittee must comply with the Contingency Planning and Notification Requirements of Regional Water Board Order No. 74-151 and the Monitoring and Reporting Program (including any modifications to these documents) as specified by the Executive Officer. Such documents are attached to this Order and incorporated herein. The permittee shall file with the Regional Water Board technical reports on self monitoring work performed according to the detailed specifications contained in any monitoring and reporting program as directed by the Regional Water Board.

Chemical, bacteriological, and bioassay analyses shall be conducted at a laboratory certified for such analyses by the State Department of Health Services. In the event a certified laboratory is not available to the permittee, analyses performed by a noncertified laboratory will be accepted provided:

- a) A quality assurance/quality control program is instituted by the laboratory, and a manual containing the steps followed in this program is kept in the

laboratory and made available for inspection by staff of the Regional Water Board. The quality assurance/quality control program must conform to U.S. EPA or State Department of Health Services guidelines.

- b) The laboratory will become certified within the shortest practicable time if the State certification program is resumed.

**All Discharge Monitoring Reports shall be sent to:**

California Regional Water Quality Control Board  
North Coast Region  
5550 Skylane Blvd., Suite A  
Santa Rosa, CA 95403

- 18. The Regional Water Board shall notice a reconsideration of this Order within 60 days of the date of the final judgement by the San Francisco Superior Court in *WaterKeepers Northern California, et al.*, Case No. 312513, for the purpose of modifying the Order to make it consistent with the judgement of the Court in this matter where any term, limitation, or provision is inconsistent with the judgement. The Order shall be modified within the time period established by the Court in this matter.

**Certification**

I, Lee A. Michlin, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, North Coast Region, on January 26, 2001.

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Lee A. Michlin  
Executive Officer